

CHAPTER 43-45 ADDICTION COUNSELORS

43-45-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Addiction counseling" means the provision of counseling or assessment of persons regarding their use or abuse of alcohol or a controlled substance.
2. "Board" means the board of addiction counseling examiners.
3. "Practicum" means a minimum of nine months clinical training including inpatient or outpatient treatment work.
4. "Private practice of addiction counseling" means the independent practice of addiction counseling by a qualified individual who is self-employed on a full-time or part-time basis and is responsible for that independent practice. Consultation services provided to an organization or agency are not the private practice of addiction counseling.
5. "Work experience or internship" means a professional addiction treatment experience under the supervision of a clinical supervisor in a licensed addiction treatment facility or under the authority of a licensed addiction facility.

43-45-02. Board of addiction counseling examiners - Composition. The governor shall appoint a nine-member board of addiction counseling examiners. The members shall include:

1. Six members who are licensed addiction counselors actively engaged in the practice of addiction counseling.
2. Two members who are laypersons.
3. One member who is a licensed addiction counselor in private practice.

43-45-03. Board member terms. The governor, prior to September 1, 1993, shall appoint one new board member for a term of one year, and one new board member for a term of two years. Appointments made thereafter must be for three-year terms, but no person may be appointed to serve for more than two consecutive terms. Terms begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the newly appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section.

43-45-04. Board power, duties, and authority. The board shall administer and enforce the provisions of this chapter, evaluate the qualifications of applicants, and issue licenses under this chapter. The board shall also approve addiction counselor training programs and internship sites. The board may:

1. Adopt rules under chapter 28-32, relating to licensure of addiction counselors, the establishment of ethical standards of practice for persons holding a license to practice addiction counseling in this state, the establishment of continuing education requirements, the requirements for approved addiction counselor training programs, internship sites, the requirements for clinical supervisors, the requirements for individuals in the private practice of addiction counseling, and requirements for trainee or internship approval.
2. Issue subpoenas, examine witnesses, and administer oaths, and may investigate allegations of practices violating the provisions of this chapter.

3. Recommend prosecution for violations of this chapter to the appropriate state's attorney.
4. Recommend that the attorney general bring civil actions to seek injunctive and other relief against violations of this chapter.
5. Approve and administer examinations for licensing addiction counselors.
6. Collect a fee set by the board on the filing of each application for a license to practice addiction counseling.
7. Appoint or employ persons to assist the board in carrying out its duties under this chapter.

43-45-05. Board meetings.

1. The board shall meet on at least a quarterly basis. A majority of the members constitute a quorum.
2. Each board member shall serve without compensation but shall receive expenses as provided in section 54-06-09.

43-45-05.1. Licenses.

1. The board shall issue an initial one-year license as an addiction counselor to an applicant who:
 - a. Has successfully completed coursework, approved by the board, at an accredited college or university;
 - b. Has successfully completed one or more oral or written examinations approved by the board for this purpose;
 - c. Has successfully completed an addiction counselor training program approved by the board, a practicum, and a work experience or internship; and
 - d. Has satisfied the board that the applicant agrees to adhere to the code of professional conduct adopted by the board.
2. The board may grant reciprocity, on such terms and conditions as it may determine necessary, to an applicant for licensure who is in good standing as a licensed, approved, or certified addiction counselor under the laws of another state, territory of the United States, or province of Canada, or certifying body that imposes substantially the same requirements that are imposed under this chapter.
3. An applicant who is denied licensure must be notified in writing of the reasons for denial and of the right to a hearing before the board, under chapter 28-32, if a hearing is requested within thirty days.

43-45-05.2. Representation to the public.

1. A person may not represent to the public that the person is an addiction counselor or engage in the practice of addiction counseling in this state unless the person is a licensed addiction counselor.
2. The license issued by the board under the provisions of this chapter must be prominently displayed at the principal place of business where the addiction counselor practices.

43-45-05.3. Private practice of addiction counseling. A person may not engage in the private practice of addiction counseling unless that person:

1. Is licensed under this chapter as a licensed addiction counselor.
2. Is registered with the board as eligible for private practice under criteria established by board rule.
3. Has a board approved system established for peer review.
4. Upon application prior to January 1, 1994, the board shall register as eligible for private practice of addiction counseling any licensed addiction counselor who at that time is engaged in the private practice of addiction counseling.

43-45-06. Addiction counseling practice - Exemptions.

1. Nothing in this chapter may be construed to prevent any person from doing work within the standards and ethics of that person's profession and calling, provided that the person does not represent to the public, by title or by use of the initials L.A.C., that the person is engaging in addiction counseling.
2. Nothing in this chapter may be construed to prevent students who are enrolled in programs of study leading to addiction counseling degrees from training with a board-approved clinical supervisor.
3. Nothing in this chapter may be construed to prevent trainees or interns in programs approved by the board from engaging in activities required by the approved program without obtaining a license to practice addiction counseling.

43-45-07. Renewal of license.

1. The board shall annually renew the initial license of a person licensed under this chapter upon application and showing that:
 - a. The holder of the license is in compliance with the provisions of this chapter and the rules adopted under this chapter.
 - b. The holder of the license has successfully completed the continuing education requirements set by the board.
 - c. The holder of a license has made payment of the renewal fees as set by the board.
 - d. The license is not currently revoked or suspended.
2. If the application for renewal does not meet the above conditions within six months of the expiration date of the license, the board may revoke the license.

43-45-07.1. Grounds for disciplinary proceedings. The board may deny an application, refuse to renew, suspend, revoke, or place on probationary status any license issued under this chapter on proof at a hearing that the applicant or holder of the license has engaged in unprofessional conduct. Unprofessional conduct includes:

1. Obtaining an initial license or renewal by means of fraud, misrepresentation, or concealment of material facts.
2. Violating rules set by the board.
3. Violating a provision of this chapter.

4. Violating the professional code of conduct as adopted by the board.
5. Being adjudged guilty of an offense determined by the board to have a direct bearing on an applicant's or holder of the licensee's ability to serve the public as an addiction counselor or being adjudged guilty of any offense and being insufficiently rehabilitated as determined by the board under section 12.1-33-02.1.

One year from the date of the revocation, the licenseholder may make application for initial licensure.

43-45-07.2. Reporting obligations.

1. A person who has knowledge of any conduct constituting grounds for discipline under this chapter may report the violation to the board.
2. The hospital, clinic, or other health care institution, facility, or organization shall report to the board any action taken by the hospital, clinic, or other health care facility, institution, or organization to revoke, suspend, restrict, or condition an addiction counselor's privilege to practice or treat patients in the hospital, clinic, or other health care facility or institution, or as part of the organization, any denial of privileges or any other disciplinary action.

43-45-07.3. Complaints - Investigations.

1. A person aggrieved by the actions of a counselor licensed under this chapter may file a written complaint with the board citing the specific allegations of misconduct by the counselor. The board shall notify the counselor of the complaint and request a written response from the counselor.
2. The board may investigate a complaint on its own motion, without requiring the identity of the complainant to be made a matter of public record, if the board concludes that good cause exists for preserving the confidentiality of the complainant.
3. An addiction counselor who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation, and providing copies of patient records when reasonably requested by the board and accompanied by the appropriate release.
4. In order to pursue the investigation, the board has the power to subpoena and examine witnesses and records, including patient records, and to copy, photograph, or take samples. It may require the licensed addiction counselor to give statements under oath, to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interest of the public that this evaluation be secured. A written request from the board constitutes authorization to release information. The patient records that are released to the board are not public records.
5. Unless there is a patient release on file allowing the release of information at the public hearing, all data and information, including patient records, acquired by the board in its investigation are confidential and closed to the public. All board meetings wherein patient testimony or records are taken or reviewed are confidential and closed to the public. If no patient testimony or records are taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

43-45-08. Penalty. Any person who violates this chapter is guilty of a class B misdemeanor.